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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/993,633	11/27/2001	Yukitoshi Kato	029650-109	8228

7590 08/01/2003

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EXAMINER

NGUYEN, VI X

ART UNIT PAPER NUMBER

3731

DATE MAILED: 08/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

N.K

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/993,633	KATO, YUKITOSHI
	Examiner Victor X Nguyen	Art Unit 3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 27 November 2001.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 11-17 and 19 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-10 and 18 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                           | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4 . | 6) <input type="checkbox"/> Other: _____ .                                   |

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election without traverse of claims 1-10 and 18 of Species I in Paper No. 6 is acknowledged. Claims 11-17 and 19 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention. Election was made **without** traverse in Paper No. 6.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-10 and 18 are rejected under 35 U.S.C. 102 (b) as being anticipated by Walsh et al (U.S. 4,917,087).

Regarding claim 1, Walsh et al show in figures 23a, 23b, 24, abstract and col. 10, lines 49-67, col. 11, lines 1-65, an anastomosis device includes a contact portion (610) which brings into contact with an end of a blood vessel; a supporting portion (606); an operating mechanism (602,604); and wherein at least two portions (606,608) of the end of the blood vessel can be expanded or reversed by the operating mechanism (602,604).

Regarding claims 2 and 3, wherein the contact portion (610) includes a ring portion (610,612) in the form of a circular ring. The ring is supported by the supporting portion (606), wherein the operating mechanism (602,604) increases and reduces the diameter of the ring portion. The ring portion (610,612) is inserted into the blood vessel through the opening of the

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end of the blood vessel; and wherein the contact portion (610) is made of a superelastic material (col. 12, lines 45-64).

Regarding claims 4 and 5, wherein a device further includes a regulatory means (item 165, figs 14a-14c) for regulating the operating mechanism; and wherein the regulatory means includes an adjustment means (not labeled, fig. 14b).

Regarding claims 6 and 7, wherein the supporting portion (606) has a pair of arms (602, 604). The wire member of the ring portion (610,612) connects to distal end of the arms. The diameter of the ring portion is changed by changing the distance between the distal ends of the pair of arms (602, 604); and wherein the pair of arms (602, 604) includes intermediate portions (606, 608) intersecting each other.

Regarding claims 8-9 and 18, wherein the diameter of the ring portion (610,612) is changed by changing the length of the wire like member. The length of the wire like member is changed by causing the wire like member to extrude or retract on a distal end of the supporting portion (606); and wherein a clip ring (fig. 24) is capable of being fitted around a blood vessel.

Regarding claim 10, wherein the contact portion (610) is in the state of having its diameter reduced when the supporting portion (606) is in an unrestrained state, and the diameter of the contact portion is increased when the supporting portion is in an urged state.

### *Conclusion*

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat. No. 6,569,178 to Miyawaki

U.S. Pat. No. 4,622,970 to Wozniak

U.S. Pat. No. 4,470,415 to Wozniak

U.S. Pat. No. 5,486,187 to Schenck

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U.S. Pat. No. 6,488,692 to Spence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor X Nguyen whose telephone number is (703) 305-4898. The examiner can normally be reached on M-F (8-4.30 P.M.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Milano can be reached on (703) 308-2496. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3590 for regular communications and (703) 305-3590 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

Victor X Nguyen  
Examiner  
Art Unit 3731

vn /w  
July 27, 2003

  
MICHAEL J. MILANO  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700